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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,250

09/15/2005

Udo Gortz

915-006.062

2965

4955

7590

06/20/2008

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EXAMINER

NGUYEN, DAVID Q

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

06/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/517,250

Applicant(s)

GORTZ ET AL.

Examiner

David Q. Nguyen

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/David Q. Nguyen/
Primary Examiner, Art Unit 2617

Continuation of 11, does NOT place the application in condition for allowance because: Response to Arguments

Applicant's arguments filed 06/09/08 have been fully considered but they are not persuasive.

Applicant argues on page 3of Remarks: "Valentine does not teach or suggest to use this technique in a mobile electronic device, e.g. a mobile telephone, with built-in answering machine functionality that allows digital content to be edited and changed based on obtained sensor data, or applying the same to solve problems related to, or associated with, built-in answering machine functionality in such mobile electronic devices, terminals or telephones". Examiner disagrees.

First, "built-in answering machine functionality" is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, Valentine teaches the communication device as claimed 6 is a mobile phone (see fig. 1 and pars. 0037-0040). Below is par. 0040 of Valentine:

[0040] In box 4, user commands which may be attached to profiles are provided. The user commands are ones which are available to the system but which may be selected by a system user to be attached to the profiles so as to activate the profiles at desired times, locations, or on demand. Commands and/or profiles may be changed by a user remotely using any desired communication device, including a pager, cellular phone, POTS phone or on the internet. Therefore, a cellular phone user with 2-way pager or cellular technology can select or change a user profile on their landline, cellular, or other telephone.

Moreover, Valentine teaches allowing digital content to be edited and changed based on obtained sensor data as described in pars 0012-0013 below:

[0012] In a further aspect the invention also provides one or more greeting profiles which may be created by an intended call recipient, the profiles being activated manually or automatically based upon predetermined parameters such as the time, day or time of day.

[0013] The profiles may comprise one or more greetings which are pre-recorded by the call recipient and are configured so as to the time or activity or possibly location specific. These profiles will typically be the days of the week, "gone for the day", "weekend". "On a conference call", "in a meeting" etc. These greetings can be set to a schedule for say, the days of the week greetings (Hi, it is Fred and it is Monday and I haven't been able to take your call so please leave me a message and I will get back to you as soon as possible), night (Hi, it is Fred and I have left the office and I am unable to take your call right now so please leave me a message after the tone), gone for the weekend (Hi, it is Fred and it is the weekend and I haven't been able to take your call so please leave me a message after the tone and I will get back to you on Monday) etc. The announcement of these changing profiles creates the impression that the cellular user is changing their greetings on at least a daily basis and is therefore a responsive voice messaging user. Additionally the greetings that give the immediate message of unavailability (e.g. in a meeting greeting) give caller more and better information as to why they cannot reach their calling party.

Therefore, Valentine does teach or suggest to use the technique in a mobile electronic device, e.g. a mobile telephone that allows digital content to be edited and changed based on obtained sensor data.